



KLESTADT
WINTERS
JURELLER
SOUTHARD &
STEVENS, LLP

200 WEST 41ST STREET
17TH FLOOR
NEW YORK, NY 10036-7203
TELEPHONE (212) 972-3000
TELEFAX (212) 972-2245
WWW.KLESTADT.COM

TRACY L. KLESTADT
DIRECT: (212) 679-8700
EMAIL: TKLESTADT@KLESTADT.COM

April 3, 2020

Via ECF and By Hand

The Honorable Paul A. Engelmayer
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: Carbon Investment Partner LLC and Carbon Master Fund, L.P., Appellants
v. Lee Alexander Bressler, Appellee
Case No. 19 Civ. 7000 (PAE)

Your Honor:

We write on behalf of appellants Carbon Investment Partners, LLC and Carbon Master Fund, L.P. (together, “Carbon”) regarding the captioned bankruptcy appeal.

Yesterday, Your Honor entered an order dismissing the appeal on the basis of appellants’ failure to file a designation of the items to be included in the record on appeal and a statement of the issues to be presented pursuant to Fed. R. Bankr. P. 8009(a), and for not making any other filing on the docket of this matter.

Appellants and appellee had previously entered into three stipulations extending the time for complying with Bankruptcy Rule 8009, which stipulations were “so ordered” by the Bankruptcy Court. Copies of the stipulations are attached hereto. The last of the stipulations provide for an extension of time until April 30, 2020.

This subject matter of this appeal involves the deadline for objecting to the dischargeability of Carbon’s debt in appellee’s bankruptcy case. There are two reasons for the multiple extensions of the Rule 8009 deadline, which were agreed to in an effort to minimize expenses and conserve judicial resources. First, there is a pending adversary proceeding involving Carbon’s objection to the appellee’s overall bankruptcy discharge, which, if sustained, would moot the appeal. Second, there have been ongoing settlement discussions between Carbon and the appellee, which, if concluded, would also moot the appeal.



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Until such time as either there is a decision on the discharge objection, or settlement negotiations are successfully concluded, it is necessary for Carbon to preserve its rights.

My understanding of appellate procedure is that is inappropriate to file any pleadings on the District Court docket until the Bankruptcy Court has transmitted the record on appeal. Please allow me to apologize to the Court if there was confusion that arose by my failure to inform the Court of the existing stipulations, and if my understanding of the rules was in error.

In view of the foregoing, we respectfully request that the Court vacate the order of dismissal. We of course will keep the Court apprised on a timely basis going forward of any further developments.

Thank you for your consideration.

Respectfully submitted,

/s/ *Tracy L. Klestadt*

Tracy L. Klestadt

Cc: Ronald Friedman, Esq.
SilvermanAcampora LLP
(Counsel to appellee)

The motion is granted and this matter is re-opened. This case is hereby stayed. Appellant is to file a status update on the docket of this case every 60 days. SO ORDERED.


PAUL A. ENGELMAYER 4/6/2020
United States District Judge

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
In re :
: Chapter 11
LEE ALEXANDER BRESSLER, :
: Case No. 18-13098 (MG)
Debtor. :
-----x

STIPULATION AND ORDER EXTENDING TIME TO FILE NOTICE OF APPEAL

In this stipulation (the “Stipulation”) (A) Carbon Investment Partners, LLC and Carbon Master Fund L.P. (collectively, “Carbon”) and (B) Lee Alexander Bressler (“Debtor”), agree as follows:

1. Pursuant to Federal Rule of Bankruptcy Procedure 8002(d), the deadline for Carbon to file a Notice of Appeal of the Court’s MEMORANDUM OPINION AND ORDER DENYING MOTION TO EXTEND TIME TO OBJECT TO DISCHARGE dated May 10, 2019 (ECF Doc. # 103) and the Court’s MEMORANDUM OPINION AND ORDER DENYING MOTION FOR RECONSIDERATION OF DECISION DENYING MOTION TO EXTEND TIME TO OBJECT TO DISCHARGE dated June 4, 2019 (ECF Doc. # 126) is hereby extended from June 18, 2019 to, through and including July 9, 2019.

2. This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Any signature delivered by a party via telecopier transmission shall be deemed an original signature hereto.

3. The Bankruptcy Court shall retain jurisdiction with respect to all matters arising from or related to this Stipulation, including, without limitation, for purposes of enforcing the terms and conditions of this Stipulation.

Dated: New York, New York
June 10, 2019

SILVERMAN ACAMPORA LLP

By: /s/ Ronald Friedman
Ronald Friedman
100 Jericho Quadrangle
Suite 300
Jericho, NY 11753
Tel: (516) 479-6300
Email:
rfriedman@silvermanacampora.com

Counsel to the Debtor

Dated: New York, New York
June 10, 2019

KLESTADT WINTERS JURELLER
SOUTHARD & STEVENS, LLP

By: /s/ Tracy L. Klestadt
Tracy L. Klestadt
200 West 41st Street, 17th Floor
New York, New York 10036
Tel: (212) 972-3000
Fax: (212) 972-2245
Email: tklestadt @klestadt.com

*Co-Counsel to Carbon Investment
Partners LLC and Carbon Master
Fund L.P.*

IT IS SO ORDERED.

Dated: June 10, 2019
New York, New York

/s/ Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re :
LEE ALEXANDER BRESSLER, : Chapter 11
Debtor. : Case No. 18-13098 (MG)
-----X

**SECOND STIPULATION AND ORDER EXTENDING TIME FOR CARBON
INVESTMENT PARTNERS LLC AND CARBON MASTER FUND, L.P. TO FILE
DESIGNATION OF RECORD AND STATEMENT OF ISSUES ON APPEAL
PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 8009(a)(1)**

In this stipulation (the “Stipulation”) (A) Carbon Investment Partners, LLC and Carbon Master Fund L.P. (“Appellants”) and (B) Lee Alexander Bressler (the “Appellee”), agree as follows:

1. On July 8, 2019, Appellant filed a Notice of Appeal [ECF Docket no. 151] of the Court’s MEMORANDUM OPINION AND ORDER DENYING MOTION TO EXTEND TIME TO OBJECT TO DISCHARGE dated May 10, 2019 [ECF Docket no. 103] and the Court’s MEMORANDUM OPINION AND ORDER DENYING MOTION FOR RECONSIDERATION OF DECISION DENYING MOTION TO EXTEND TIME TO OBJECT TO DISCHARGE dated June 4, 2019 [ECF Docket No. 126].

2. The deadline for Appellant to file its designation of the items to be included in the record on appeal and a statement of the issues to be presented as required by Federal Rule of Bankruptcy Procedure 8009(a)(1) is hereby extended from October 31, 2019 to, through and including January 15, 2020.

3. This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the

same instrument. Any signature delivered by a party via telecopier transmission shall be deemed an original signature hereto.

4. The Bankruptcy Court shall retain jurisdiction with respect to all matters arising from or related to this Stipulation, including, without limitation, for purposes of enforcing the terms and conditions of this Stipulation.

Dated: New York, New York
October 2, 2019

SILVERMAN ACAMPORA LLP

Dated: New York, New York
October 2, 2019

KLESTADT WINTERS JURELLER
SOUTHARD & STEVENS, LLP

By: /s/ Ronald Friedman
Ronald Friedman
100 Jericho Quadrangle
Suite 300
Jericho, NY 11753
Tel: (516) 479-6300
Email:
rfriedman@silvermanacampora.com

By: /s/ Tracy L. Klestadt
Tracy L. Klestadt
200 West 41st Street, 17th Floor
New York, New York 10036
Tel: (212) 972-3000
Fax: (212) 972-2245
Email: tklestadt @klestadt.com

Co-Counsel to the Appellant

Counsel to the Appellee

IT IS SO ORDERED.

Dated: October 4, 2019
New York, New York

/s/ Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re :
LEE ALEXANDER BRESSLER, : Chapter 11
Debtor. : Case No. 18-13098 (MG)
-----X

**THIRD STIPULATION AND ORDER EXTENDING TIME FOR CARBON
INVESTMENT PARTNERS LLC AND CARBON MASTER FUND, L.P. TO FILE
DESIGNATION OF RECORD AND STATEMENT OF ISSUES ON APPEAL
PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 8009(a)(1)**

In this stipulation (the “Stipulation”) (A) Carbon Investment Partners, LLC and Carbon Master Fund L.P. (“Appellants”) and (B) Lee Alexander Bressler (the “Appellee”), agree as follows:

1. On July 8, 2019, Appellant filed a Notice of Appeal [ECF Docket no. 151] of the Court’s MEMORANDUM OPINION AND ORDER DENYING MOTION TO EXTEND TIME TO OBJECT TO DISCHARGE dated May 10, 2019 [ECF Docket no. 103] and the Court’s MEMORANDUM OPINION AND ORDER DENYING MOTION FOR RECONSIDERATION OF DECISION DENYING MOTION TO EXTEND TIME TO OBJECT TO DISCHARGE dated June 4, 2019 [ECF Docket No. 126].

2. The deadline for Appellant to file its designation of the items to be included in the record on appeal and a statement of the issues to be presented as required by Federal Rule of Bankruptcy Procedure 8009(a)(1) is hereby extended from January 15, 2020 to, through and including April 30, 2020.

3. This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the

same instrument. Any signature delivered by a party via telecopier transmission shall be deemed an original signature hereto.

4. The Bankruptcy Court shall retain jurisdiction with respect to all matters arising from or related to this Stipulation, including, without limitation, for purposes of enforcing the terms and conditions of this Stipulation.

Dated: New York, New York
January 15, 2020

SILVERMAN ACAMPORA LLP

Dated: New York, New York
January 15, 2020

KLESTADT WINTERS JURELLER
SOUTHARD & STEVENS, LLP

By: /s/ Ronald Friedman
Ronald Friedman
100 Jericho Quadrangle
Suite 300
Jericho, NY 11753
Tel: (516) 479-6300
Email:
rfriedman@silvermanacampora.com

Counsel to the Appellee

By: /s/ Tracy L. Klestadt
Tracy L. Klestadt
200 West 41st Street, 17th Floor
New York, New York 10036
Tel: (212) 972-3000
Fax: (212) 972-2245
Email: tklestadt @klestadt.com

Co-Counsel to the Appellant

IT IS SO ORDERED.

Dated: January 15, 2020
New York, New York

/s/ Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge